

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27899 of 2019**

Arising Out of PS. Case No.-22 Year-2019 Thana- BHAGWANPUR District-
Begusarai

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SANJAY KUMAR SAH @ SANJAY SAH Son of Ram Bilash Sah Resident of
Village - Naula, P.S.- Bhagwanpur, Distt.- Begusarai.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Nakul Kumar Jamuar, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

2 29-04-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Section 30(a) of Bihar Prohibition & Excise Act,
2016 and Section 188 of the Indian Penal Code registered in
connection with Bhagwanpur P.S. Case No. 22 of 2019.

3. It is submitted that the petitioner has been falsely
implicated and in any event even according to the F.I.R. the
petitioner is alleged to have been present along with Sanjeev
Kumar and Rajnish Kumar who were drunk and were dancing.
Except presence, there is no allegation that the petitioner was
also drunk or in possession of any incriminating article. There is
delay in institution of F.I.R. on 14.02.2019 for the alleged
occurrence of 12.02.2019. The petitioner claims clean



antecedents.

4. Ordinarily, an anticipatory bail petition in relation to the offence under the Bihar Prohibition and Excise Act, 2016 is not maintainable. However, where, on the basis of the statements in the first information report, the ingredients of the offence alleged against a persons are not made out, as observed by a Division Bench of this Court in Cr. Misc. No. 21578 of 2017 (Manish Kumar @ Lokesh Kumar Vs. The State of Bihar) and analogous cases, there would be no bar to the grant of anticipatory bail.

5. Learned APP has not pointed out any material in the F.I.R. alleging any offence is said to have been committed by the petitioner in order to attract the provisions of the said Act.

6. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge 2nd cum Excise Act, Begusarai, in connection with Bhagwanpur P.S. Case No. 22 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors shall be a close relative of



the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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